S. HRG. 98-120

FEDERAL GRAIN STORAGE INSURANCE ACT OF 1983

HEARING

BEFORE THE

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

FIRST SESSION

ON

S. 550

A BILL TO ESTABLISH A FEDERAL GRAIN STORAGE INSURANCE CORPORATION TO PROTECT FARMERS WHO STORE GRAIN IN CERTAIN WAREHOUSES AGAINST LOSSES CAUSED BY THE INSOLVENCY OF SUCH WAREHOUSES, AND FOR OTHER PURPOSES

FEBRUARY 28, 1983
WEST MEMPHIS, ARK.

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MONDAY, FEBRUARY 28, 1983

U.S. SENATE,
COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY,
West Memphis, Ark.

The committee met, pursuant to notice, in the city hall, at 9 a.m., Hon. David H. Pryor presiding.

Present: Senator Pryor.

STATEMENT OF HON. DAVID H. PRYOR, A U.S. SENATOR FROM ARKANSAS

Senator PRYOR. Good morning ladies and gentlemen. We are very appreciative of all of you coming. I'm sorry I got here a few minutes late, but driving conditions weren't too good from Little Rock this morning. I hope to have the opportunity to visit personally with most of you after our hearing this morning.

First, this is an official field hearing authorized by the U.S. Senate Committee on Agriculture. Second, I have four of our staff people with us today, two from our Little Rock office, Carolyn Keggley and Annie Powell.

From my Washington office, Jay Stockley, who is no stranger to anyone in these parts. And, also Tom Cortway. I don't know if we have a member of the Senate Agriculture Committee staff with us this morning. I don't see anyone. They will certainly be welcome should they desire to attend or make any statement.

We have four witnesses this morning, ladies and gentlemen. We're not going to have a long, drawn-out hearing. We have four witnesses, or actually four groups of witnesses, I should say, we will hear from them momentarily. Then I would like to invite anyone in the audience who has a comment or perhaps a question, to speak into one of the microphones that are provided for you, and we will get your name for the record, and it will be a part of the official transcript, which will be lodged officially with the Senate Committee on Agriculture in Washington, D.C.

I have a short statement, ladies and gentlemen, that I would like to summarize. I am pleased to be in West Memphis this morning to hear the views of several distinguished people on two measures that I've recently introduced dealing with grain elevators.

We all know the problems that have occurred in the past. Nationwide there have been almost 125 elevator bankruptcies in the last few years. The losses have been in the neighborhood of some $25 million.

Several measures have been introduced in an effort to correct the problems which have occurred. I've supported proposed amendments to the Bankruptcy Act to create and expedite a procedure for farm commodities, and to give farmers secured status when they have grain stored in elevators.

I've also introduced two bills recently, which are the subject of this hearing this morning in West Memphis. The first of these pieces of legislation would have to be approved by a referendum of the farmers themselves. We create a fund which would be available to reimburse farmers, should a bankruptcy occur.

The second bill would expand the existing payment-in-kind program known as PIK, to allow farmers who have lost grain due to the insolvency of bankruptcy of an elevator to be reimbursed with commodities equal in value to their losses.

Many communities have been hard hit by these bankruptcies, and I think an expansion of the PIK program would be very helpful in alleviating this economic disaster. Let me also say at this point in the record that Representative McGinnis and Senator Ingram introduced legislation recently in the Arkansas General Assembly, asking the Congress of the United States to address the issue of those farmers who, through no fault of their own, lost in many instances their life savings because of bankruptcy situation in grain storage elevators.

Shortly, I will call on Representative McGinnis and Senator Ingram to make a statement in that regard in support of this legislation. Before we hear from the witnesses this morning I would like to mention two questions that I think are extremely important and should receive serious congressional consideration as soon as possible.

First, I think that Congress must deal immediately with the timing of the taxes on PIK commodities. As many of you know, and I have certainly voiced my objection to this recent ruling, the Internal Revenue Service has ruled that farmers will be taxed upon receipt of the commodity, rather than upon the sale of that commodity.

And, that is the case when the crop is grown. As everyone here understands this morning, such taxation, I feel, would be totally unthinkable and unbearable. Because the money is simply not available. This must be changed and other tax issues must be clarified.

I'm now cosponsoring a measure to correct and address this problem. Today the Senate Finance Committee, Subcommittee on Energy and Agriculture Taxation, of which I am a member, is holding a hearing on the tax issues relating to the PIK program. I'm proud to be a member of that subcommittee, and following the hearing this morning I will return to Washington to try to get Congress to help approve the PIK tax bill, and to grant clarification and relief in this area.

The second issue concerns agriculture trade. I hope that we can discuss the creation in the Congress of an advocate's position for the American farmer within the State Department. You may think that is a little strange, but after 4 years in the Senate and a member of the Senate Agriculture Committee, dealing not only with the Office of Management and Budget, but more specifically

with the issue of agriculture matters and those decisions today being made by the State Department.

I'm concerned, very gravely concerned, that the farmer has no advocate or no individual position to look after the interest of the farmer. The farmers of this Nation have no voice whatsoever in the development of our foreign policy.

You have been whipsawed in recent years with embargoes and threats of embargoes, and other intimidations that only tend to disrupt markets and cause considerable doubt as to whether this country is a reliable supplier.

I recently had the opportunity to go on an agriculture trade mission with Senator Cochran of Mississippi, Senator Leahy of Vermont, and myself to the People's Republic of China. On many occasions in our negotiations with the Chinese over a week-long period, many occasions I heard our own country described by the Chinese as an unreliable supplier.

We must do something very quickly to show our credibility and our willingness to engage in contract sanctity in this Nation's fulfilling its commitments to engage in this trade. I've introduced a bill, Senate bill 534, which would create an Under Secretary of State for Agricultural Affairs. This individual would finally give the farmers a voice in the development of foreign policy matters that relate to agriculture and to trade activities.

It would insure or at least help that your needs be adequately considered. Everyone today looks to USDA and the Office of Management and Budget, as the two most important agencies for agriculture. But with international trade being as important an issue as it is today, especially in our quest for improving our export markets, the State Department is one area where a voice for the farmer is so desperately needed. Again, it is good to be here this morning in West Memphis. I deeply appreciate your appearance, and your taking time out from your schedule to join with us. I look forward this morning to hearing testimony of these very fine witnesses. This will allow my colleagues in the Senate, specifically my colleagues on the Senate Agriculture Committee, to take stock of what we've learned from this meeting this morning in West Memphis.

I think that our first witness should be one of the coauthors of the resolution passed by the general assembly. At this time, ladies and gentlemen, I would like to call upon Senator Kent Ingram. Kent?

STATEMENT OF HON. KENT INGRAM, ARKANSAS STATE SENATOR

Senator INGRAM. I'd like to give a little background that led up to the legislation that was introduced and passed. Approximately about a month and a half ago a personal friend of mine, Steve Bernard, contacted Representative Bob McGinnis and myself about supportive legislation through the PIK program, which would return surplus grain to those farmers who have sustained loss from bankrupt grain elevators.

Joint Senate and House Resolution Number 6 was passed by Representative McGinnis and myself, and by unanimous consent in

both Houses and forwarded on to Washington to our Washington delegation, in support of that legislation.

From the beginning Senator Pryor's office and his staff have been supportive of this legislation and I certainly appreciate all the help that they have given this program. And, I appreciate their presence here today.

I am here to give my support to this legislation today, and also to thank Senator Pryor for affording the farmers in my area to come here and testify today in their behalf. You know, I'd like to make one statement. There's quite a lot of talk in the papers and on the television today about an economic turn-around in this country.

I want to go on record as saying in my opinion the turn-around will have to take place in agriculture for any substantial turn-around in this country, through improved prices and expanded markets.

I appreciate the attendance today of all of you here. I hope that everyone that wants to testify feels free to come forward. Again, I want to express my deep appreciation for Senator Pryor coming here in this area and affording all of you an opportunity to express your views and your support.

I also would like to thank Representative McGinnis, who has worked very hard with Senator Pryor's staff, and I think he would also like to make a few comments.

Senator PRYOR. Thank you Senator Ingram. Representative McGinnis you are next.

STATEMENT OF HON. ROBERT McGINNIS, ARKANSAS STATE REPRESENTATIVE

Representative MCGINNIS. Thank you Senator Pryor. I would like to say amen to what Senator Ingram has said. This did come from—the idea from Steve Bernard, the idea of using the payment in kind to pay back the people who have lost grain and bankrupt storage grain in bankrupt elevators.

I'm a farmer myself and I don't apologize one bit for proposing or trying to get this legislation passed. I've been farming 29 years and I lost money for the first time this past year, in 1982. And, so I put myself in place of Steve Bernard and those people who have lost grain in bankrupt elevators, and I guarantee you, you know, if I had lost grain in a bankrupt elevator, storage grain that was not an asset of the bankrupt elevator, there's no way, you know, that I could make it.

And, that's the posture that these farmers are in. Unless they get some kind of help, you know, from the Federal Government through the PIK program, it's just no way a lot of these people are going to make it.

You know, the biggest bargain that we've got today—that the American people have today—is the price of food. That's the biggest bargain that they've got, and I think Senator Pryor will tell you if you go to Russia, or if you go to any of the foreign countries—to England, or France or just you name it—to Hawaii, or any other country, you know, the price of food is about double what it is in the United States.

And, so if they break the independent farmer and the family farm and do away with it, you're going to see the biggest escalation in the price of food that, you know, that you've ever seen. So, again, I thank you, Senator Pryor, for coming here and supporting this legislation, and I just want to say as a farmer that we appreciate it.

Senator PRYOR. Thank you, Bob. I might ask Bob or Senator Ingram a question. If you don't have specific information, you could certainly feel free to submit that answer in writing in the next several days.

In this general locality of our State, I'm somewhat familiar with the situation at Hughes and other situations. I wonder if you might just like to comment for the record as to what these bankruptcies have done, not only for the individual farmers, but also for the communities in which they live and work.

Representative MCGINNIS. Well, I don't mind saying in the Hughes area the farmers that have lost grain in the bankrupt elevator there, there are going to be a lot of them that are just flat not going to make it, you know. Because of the low price of the commodities and the high price of machinery, things that we have to buy, coupled with the fact that they lost grain through no fault of their own.

And, these bankrupt elevators, they are just not going to make it. Along that same line Representative Cunningham and myself introduced two pieces of legislation in General Assembly, and we've gotten it passed. One is House bill 478, and what that does, it allows a person who has stored grain in an elevator to use a scale ticket.

And, that scale ticket, a nonprice scale ticket will become a nonnegotiable warehouse receipt. Most of you, probably the farmers know it, but most of you don't know that when you put grain—stored grain—in an elevator, well the elevator—the owner of the elevator has up to 180 days in which he can give you a warehouse receipt.

If the elevator happens to go bankrupt during that interim, during that period from the time you put it in to 180 days, the farmer in the past has had nothing to hang on to and say, look, that is my grain. So, we passed this bill that said that a nonprice scale ticket will serve as a nonnegotiable warehouse receipt.

The second bill that we passed was House bill 548, which said that when a bankrupt elevator goes—when an elevator goes bankrupt we've authorized the director of the State plan board to receive this stored grain. The stored grain is not an asset of the bankrupt elevator and the director of State plan board will go into the receivership for this stored grain, which is the farmer's grain, and he will market this grain and get the money back to the farmers that had this grain stored.

In the past it's gotten all tied up in the bankruptcy courts and in the State courts, and sometimes its taken from 1 year or 2 years for this grain to get back and to be sold and the money to get back for the farmers. In a lot of instances, it's gotten tied up in the courts and the farmers never got it back.

So we think these two pieces of legislation are going to help a lot in bankrupt elevators.

Senator PRYOR. Would you like to comment Senator Ingram?

Senator INGRAM. I would like to just echo what Representative McGinnis said. Most of our communities in this area are small communities, especially in the Hughes area. In the last 4 or 5 years, whether it be weather conditions or depressed prices, have left our farming community in a precarious close margin operational-type situation.

To put it simply, the losses that have been incurred in these bankrupt—grain elevators is placing the farmers in a near bankruptcy situation themselves, which is no fault of their own. And, when these small communities, the effect that this loss of farm income in a small community, has affected not only the small retail stores but the general trade area within a 40- to 50-mile radius.

So the impact, I would say to put it mildly is not just centered in one small little community but within a geographical area.

Senator PRYOR. Senator Ingram and Representative McGinnis, we know that you have some serious legislating to do in Little Rock and know that you need to get on the road. But, one, I'm very appreciative as a Member of the Senate in Washington, receiving the resolution that you did sponsor. I think that it certainly drew attention to a matter that had—I don't want to say had been overlooked, but just had not been tended to.

With the coming into effect of the PIK program, we think it is a perfect example of how we might expand the PIK program, and not only compensate these farmers for their losses, not due to their fault, but also to help ultimately remove some of the grain in surplus stores shown by CCC at this time. We just think that there's just no down side to this legislation, and we're hopeful that it can be passed.

I thank both of you.

Senator INGRAM. Thank you, Senator.

Representative MCGINNIS. Thank you, Senator.

Senator PRYOR. Before you leave I would like to insert in the official record of the hearing a telegram received this morning from my colleague, Senator Bumpers, who has endorsed not only this particular legislative, but also S. 596, the Grain Storage Compensation Act of 1983. Both of us are co-sponsoring these two particular pieces of legislation.

I would like to add his telegram as an official part of this transcript. Unless you have something else we'll excuse you and you can go about your duties.

[The following telegram was received for the record:]

WASHINGTON, D.C., *Feb. 26, 1983.*

Senator DAVID PRYOR,
City Hall
West Memphis, Ark.

I'm sorry that I'm unable to attend the very important hearing being held by Senator Pryor today on S. 596, The Grain Storage Compensation Act of 1983. I am proud to say that I am a co-sponsor of S. 596 and am prepared to give it my wholehearted support. Farmers across the Nation have suffered greatly due to elevator failures and S. 596 offers a simple remedy, in conjunction with the announced PIK program, that will provide wide spread relief to many—not just the farmers devastated by elevator failures, but to the entire rural community dependent on these farmers.

Senator Pryor and I have also introduced S. 550, a bill that would establish the Federal Gain Storage Insurance Corporation, that would go a long way in providing a permanent program of protection for our farmers against elevator failures. During the coming year, Congress and the President must join hands in coming to grips with the elevator failure crises before us. I wish to commend Senator Pryor for introducing S. 596 and I urge everyone to give this bill their support.

DALE BUMPERS.

Senator INGRAM. We'll try to get back over and see that they don't do anything to us.

Senator PRYOR. Thank you, Kent, so very much, Bob, thanks so very much.

I think, too, it would be a good point in this record to keep the record somewhat intact, to read a recent statement from the General Accounting Office relative to elevators generally in our country.

According to a statement by Brian Crowley of the U.S. General Accounting Office recently, and I would like to make this quote from his statement.

The best overall and latest available data on past bankruptcies indicate that about 2 percent of the approximately 10,000 grain warehouses nationwide have gone bankrupt since—between 1974 and 1979. To estimate how many warehouses might be in financial trouble we applied certain financial ratios and self-developed criteria to data reported to USDA by a ran[illegible] sample of 400 grain warehouses under Federal jurisdiction.

We found that 19 of these warehouses or 4.75 percent of the sample warehouses met our criteria for being in financial trouble. Based on these results we estimate that about 300 warehouses may be financially unsound.

At the 95-percent confidence level this number could range from 173 to 427 warehouses in some degree of financial trouble. About 36 percent of grain warehouses are subject to only state requirements which range from nonexistence to very stringent.

Senator PRYOR. I thought at that point in the record it might be appropriate to submit that statement from the U.S. General Accounting Office.

Our next witness this morning is Steve Bernard. Steve, would you come forward? And, also John Stipe, our friend from Forrest City.

Mr. BERNARD. Senator, I have another one or two persons here that would like to say a short word or two.

Senator PRYOR. Well, bring them up.

Mr. BERNARD. Charles Adams, David Trainor, and Davis Biggs.

Senator PRYOR. All right, that's David Trainor and Mr.——

Mr. BERNARD. Douglas Trainor, Charles Adams, and Davis Biggs.

Senator PRYOR. All right. We won't go very much on formality this morning, because what we're after is getting information. So anyway we can get it we're going to try to do it.

STATEMENT OF STEVE BERNARD

Mr. BERNARD. Well, the first thing I want to do is thank you for your interest in agriculture, and a special thanks for being here today and for sponsoring this act. I understand that it has been named the Equitable Farm Compensation Act of 1983, and all you people in the audience, that's the name that they've given the bill to compensate the farmers who have lost grain in these elevators with CCC surplus commodities.

I would also like to point out that we have several farmers here from Missouri, Tennessee, and from the northeast corner of Arkansas.

Senator PRYOR. We welcome them here.

Mr. BERNARD. And, they, too, have a special interest in this legislation because they've also suffered a loss. As you no doubt know, this legislation is No. 1 on my list, and I'd like to point out some of the good features that I see in this bill.

But before I do that I want to tell you that I've talked to farmers in several States, and I've yet to find any farmer that's opposed to this legislation. Some of the good features that I see in the bill, it provides immediate relief for a number of farmers that will be forced out of business without its passage or some other miracle happening.

Second, there's no cash or credit required on the part of the Government, as payment will be made in surplus grain. Third, it reduces our surplus, and it would help stop our storage expense.

Next, I think it's going to allow the farmers involved to pay off a portion of their carryover debts from PCA, FmHA, private lenders and various suppliers. It creates an income tax base and I think the simplicity of the bill is one of the good features of it.

If you will, I would like to mention each of these just a little bit. First, my knowledge of the loss is rather localized in that we had 10 farmers to lose grain in the St. Francis and Lee and Crittenden County areas. I'd like to follow their path a little bit since this loss occurred in 1979.

We've had one farmer since the 1982 harvest that has declared bankruptcy. He's in the chapter 11. We've had another farmer that's simply given up and knows that he can't continue. He and his employees are now numbered among the unemployed.

We've had two other farmers that are having extreme difficulty in obtaining financing for the 1983 crop, and as of this date haven't obtained operating loans. And, to start out with 10 people, that means 40 percent of them are in serious trouble. The remaining six, myself included, have managed to stay in business and as of today we plan to operate another year.

I've been told by the farmers here from Tennessee, Missouri, and northeast Arkansas that they are experiencing the same results. I have a specific example I want to mention. We had one man that lost $168,000 worth of grain. Unfortunately this loss was combined with the escalating interest rates—and this was in August of 1980, and by August of 1981, he owed $26,000 interest on the $168,000. By August of 1982, he owed $224,000, and by August of this year he'll owe $255,000, with $87,000 of that being interest since 1980.

I know that we have surpluses and there are those people in the country who have made some outstanding crops in the last few years. But I'm sorry to say that these high yields haven't been the rule of thumb in this part of the country. This man has been unable to pay off any of this back debt.

It's sort of like pushing snow, it just keeps getting bigger and bigger, and bigger on him, and I'm sure that's going to come to a halt. As we all know, Senator, it's hard to farm successfully today when you sell your crops, and you can imagine what you do when you lose 100 percent of it after harvest.

This one man told me, he said you know, to go broke is very damaging to a person's life, however, when the cause of the failure is a result of someone's actions other than yourself it's especially trying.

The no-cash, no-credit feature of this bill brings to light the fact that there's a lot of talk in Washington relating to the deficit. This bill should be attractive to all lawmakers in Washington because it allows them an opportunity to help somebody that needs help without affecting the budget.

On reducing the surplus and stocking the storage it seems that the emphasis today is on reducing grain surpluses, and we've had a number of examples and reasons of reducing surplus. Senator Cochran and Senator Huddleston proposed that we give away this grain to foreign countries.

We've had one Senator suggest we give a bushel and sell a bushel at the same time. Senator Dole, on the 19th of this month proposed that we have a massive food distribution of dairy and grain products in the amount of $1 billion.

No doubt all of these will work in helping reduce the surplus, but we, the farmers that have lost this grain, feel as if we should have some preferential treatment when this grain is distributed. As far as the feature that will help pay off a portion of their bills, the FmHA, PCA's and so forth, I'd like to point out a majority of these bills will never be paid by these farmers without the passage of this or some similar legislation.

As a point of interest the good ole American spirit has prevailed because the lenders and the suppliers have been extremely liberal with their credit policies, trying to help these people stay in business. But in this case and any other case there does come a payday, and payday is now for these people.

If they're not able to pay we're going to have some staggering losses, not only by the farmers but by some of the suppliers and the banks and the PCA's and so forth. Income tax base, it will create some income tax. Most of the farmers have enough losses that they can carry forward without having to pay any tax this year.

But these dollars turn over several times, so I think that the income tax will be arrived from it in that the suppliers and so forth will be taxable. The simplicity is that the bill can be put into effect with a minimum amount of effort and legislation.

The only other thing I have to say in closing is that I'd like to point out that most of the farmers that suffered these losses are family-size operations. These are not the big 15,000- and 20,000-acre operations. They are the 500- to 1,500-acre farmers, and they are the very type people that we need to keep in business if we're going to keep our rural economy strong. Because they are the backbone of the economy.

Other than that I don't have anything that I would like to further say, other than to thank you for your support. We recognize you as the captain of our team, and we want to offer to help you in any way we can.

Would you like for these people——

Senator PRYOR. Yes, just to comment on some of the things you said, Steve, and then we'll call on your colleagues.

It was basically because of you and others that this bill is now in the Senate. But one of the only obstacles I know of to this bill's passage is the fact that it doesn't cost anything; it is simple; it helps many people; and it makes sense.

I know that sounds crazy. We have asked the U.S. Department of Agriculture, Mr. Block, and his people to comment on it. The only comment thus far—we've now asked him in writing to comment, but the oral comment was, and the only comment we could get and I quote—they said, "Well, it's interesting."

I'm just hopeful after reading what we're up against here that they will go further and support this legislation. I have enough hope and optimism that commonsense is going to prevail. I just think they will ultimately support our legislation.

Would John Stipe like to make a comment at this time? Or, Steve, you could sort of call on your own individual panel there. John?

STATEMENT OF JOHN STIPE

Mr. STIPE. Senator, I want to add my thanks to Steve's for your being here and for your showing interest in heading up this bill. I also want to thank you for the comment you made in the support you've given to the Secretary for Agriculture in the State Department. I think this is—has a lot of merit.

Senator, I further want to thank you for your recent assistance in helping the farmers of eastern Arkansas, and the whole Nation in our relations with other Government agencies, more particularly the SBA.

I appreciate your concern for agriculture and for your taking time to be here today. I want to express my appreciation as an individual who's concerned over the farmers of this area, more particularly those who have suffered loss through no fault of their own, through the grain bankruptcy the public warehouse bankruptcy happenings.

We still have them going on. It seems like maybe we've had more than our share of the total you mentioned earlier this morning, in our area, it has certainly been devastating to our total agriculture economy.

But when it's devastating to our agriculture economy it is certainly a tremendous hardship on the individual involved. When the individual farm family that Steve mentioned puts a lien on most of their assets, their total, what they work for their whole lifetime, to make one more crop, and then have this crop disappear through no fault of their own, it is a hard thing to swallow.

The tax treatment—the second point is the tax treatment on this. I think this has a lot of merit and a very interesting philosphy if you'll follow here. The grain coming out will be no expense or no addition to the Federal budget.

Now, I don't know where the money will go that comes out of the grain that will be released from the CCC for this bill, but if it turns over five times and these people are in a 20-percent-tax bracket that handle this money, it's a very unique way of moving surplus commodities into the Federal Treasury in the form of dollars.

You can get a one for one there on the five time turnover. The third point, why this particular industry—we, in national interest had several grain embargoes, and this, I think lead to a lot of the failures of the warehouses from 1976 on forward.

I think we, as citizens of the country, nonfarmers ourself, have a certain responsibility back to the farmers of—because of the national interest that was served through the grain embargos so to speak.

And, then fourth, you mentioned the unique point the other day of paralleling this idea with the FDIC. The banks and savings and loans serve a public interest. They have a public trust. The grain warehouses serve a public interest and they have a public trust.

We do not have the safeguards in the warehouses that we have in the banks and savings and loans. So I think this is a very good point to do this. When you put money in the bank you're putting not your total assets, but you're just putting your cash dollars that are available, and yet they're insured.

When a farmer puts his total production in a warehouse he's putting the equivalent sometimes of his total assets in this effort. So the degree of risk in the warehouse end of it is much greater than the degree of risk in the banking industry.

So, I think this is a very good parallel, Senator, that you drew there and I'd like to emphasize that.

It was mentioned earlier—I believe you mentioned earlier or someone did that it takes more than just a little while to overcome this when you don't have your total production go under and a warehouse has gone bankrupt. We've had warehouses in this area—I was thinking of one particularly in 1976, that went under, and a lot of farmers in that area did not loose their total production but they lost a portion of it.

Some of these have not recovered yet. They're still in business, understand, but they're still in debt because of the losses suffered back there, you see. So it takes awhile when you have less than a total wipe out to recover from these, and certainly when we have had four crop failures in 3 years it doesn't allow recovery in a very fast order.

Senator, this is all I have on this unless someone has some questions on it. I just want to, again, thank you for this assistance you've given the farmers, particularly in eastern Arkansas, and representing us in Washington.

Senator PRYOR. Thank you, John.

Mr. BERNARD. I'd like to recognize Charles Adams next.

STATEMENT OF CHARLES ADAMS

Mr. ADAMS. Senator, I've tried to think of what's negative about it, and I think the question is going to come up, should the Government give? And, I consider myself a basic conservative, and if you ask me should the Government give to bail out victims of bankruptcy I would say no.

But I think this is a unique situation and we've got to look at the world around us. We've got to take Chrysler as an outstanding example. The Government guarantees Government loans in New York City, et cetera, et cetera.

We're in a situation where the Government does give. If I have to say I would say how to turn your liabilities into an asset. I wish somebody would give me that information. But with the information I have that's strickly what the Government would be doing. The PIK program is set up, the wheels are turning to implement it. I can see no expense and it's simply a matter of transferring a storage debt to an entity that will sell this grain, the money will flow through these businesses that have been—and many small businesses are in jeopardy.

They've been financing the farmers along with the PCA and FHA. I think the second question of the man on the street may I ask, is what are these guys that sold this shaky elevator, are they a bunch of idiots, yo-yo's, or what.

We're in a small town if the heat goes off at noon and the public school superintendent wants the mothers to come pick up the kids at 12 he calls one mother, and they'll all be there. The word spreads fast.

We grew up with the man that ran this elevator. We played tennis with him, we go to church with him. Had no idea whatsoever that anything was wrong.

And, we were not conscious of federally insured versus nonfederally insured elevators and so on until the—say the embargo. And, apparently some operators speculated rather than hedged and we had these bankruptices.

That's all I have sir, unless you have any questions.

Senator PRYOR. Charles, I thank you and first I'd like to say that farmers in no way, it's my opinion, should feel apologetic about participating in this program. If you had grain stored because—the whole premise and the concept, I guess, and the philosophical approach of this legislation is one, it was not the farmers fault.

Two, it was generally or basically, in my way of thinking and I think Charles', and John's, and others, that the fault lay with an official U.S. Government policy. That policy was enunciated or took effect, I think, on December 1, 1979.

January 4, actually when it became official and that was the embargo January 4, 1980, and this was an official policy at that moment of the U.S. Government. Which nearer to the detriment, and I might say to the devastation of hundreds and hundred of farmers across this country and many bankruptcies occurred.

I think this very directly relates to that embargo. This legislation does go back—it does apply, let's say retroactively, until December 1, 1979. It is done with that idea in mind that it was the Government's fault.

You talk about Chrysler, I certainly don't look at this as a bailout here as Chrysler was. Chrysler, in my opinion, it was their fault that those cars weren't selling. They just have to make better cars if we want to sell cars and compete.

In fact, not that they're making better cars I think they are selling more cars. It was their fault and I think a distinguishing factor there, but my whole premise is, I don't feel like this is a giveaway program nor is it a bailout. It's basically trying to rectify an action and to put people back at the status quo as of December 1, 1979.

Mr. BERNARD. I'd like to recognize Doug Trainor from West Memphis, Senator.

Senator PRYOR. I'll tell you what we might do for the record so our colleagues in Washington will know. I know who most of these folks are, but maybe they ought not only state their name but also what they do, kind of their title if you don't mind.

STATEMENT OF DOUGLAS TRAINOR

Mr. TRAINOR. Senator, my name is Douglas Trainor. I grew up in Hughes, I make my home here in the West Memphis area, and I'm involved in the distribution business here in West Memphis, but primarily in the farming business in the Hughes community.

I have a little bit of a different approach as far as the problem we're now facing in this area, and I go back a little bit further with the approach that I take. I look at our problem as being two-fold really. On the first hand we're involved in what I consider to be an international battle.

With foreign policy, the major item that's being discussed on the international scene and then secondarily on the local side what we have is a group of business men who are interested in surviving, we, as farmers.

On the international side the Government of the United States as well as the government of countries both developing and developed around the world, have made a conscious choice that policy, economic policy, will set to include farm, farm interests, and the local farmer, to the support of the farmer, if you will.

We, as farmers, whether we like it or not, are international business people. But in the international market place we're not competing with the farmer in France. We're not competing with the farmer in Japan. We're not competing with the dairymen in England. We're not competing with the cotton grower in Africa and India, or their productivity.

We are, instead, competing directly as individuals against the Government of France. The Government of Japan, the Government of Africa, the Government of India, throughout. We, as individuals, are facing a one on one battle against major international governments, and will continue to do so.

In these countries we must see government policy as our competitor. Again, it's not a logical marketplace. It is not a free market. I don't see a time when it will be a free marketplace. We will continue to compete individual against Government unless our Federal Government here in the United States takes a hard-nosed attitude with the EEC and others and says: "Look, we are going to compete and if it takes Government, then that's the way we're going to have to compete."

Let's step back away from that international scene for a minute and discuss Crittenden County, St. Francis County, and the other countries around the Nation that have been impacted by these more than 100 defaults on the basis of the local grain elevator going out of business.

We, as individuals, have been impacted by a number of ongoing embargoes which our Government here has chosen to use as a policy measure to either punish or reward the current country in favor at the State Department on almost a day-to-day basis.

We as farmers don't have the luxury to see that change occur without being impacted. We are impacted each time the President, Secretary of State, the Secretary of Defense, and all the other Secretaries make a statement as to what we should be doing on an international scene.

With the elevator in Hughes we then have a series of bankruptcies based on Government policies, both ours and foreign, an economic situation world-wide where economic policies have come home to roost in the local community, and probably some bad business calls based on the way we have always done business.

But as you know and everyone in the room knows, we're now a great deal smarter than we have been at any time in the past. Interestingly enough, I remember an economic lecture where a gentleman who is well-known throughout the world said we'll never have another depression.

Politically we're too smart. I always ascribed to that theory, but we were wrong. We have another depression. In the current economy then, we have to think in terms of how do we best survive. We have an excellent vehicle in the payment in kind or the crop swap program. It seemingly could be expanded with little effort to cover these gentlemen.

We have in the local community multiple millions of dollars that are going to be taken out of the community in an already depressed economy. We're not simply talking about the farmers who are involved being taken out of business. We're talking about the employment picture, including West Memphis, even though we have business people here like myself in distribution, marketing, banking, et cetera.

If Hughes goes down, West Memphis goes down, Memphis goes down, et cetera, et cetera. So, we're into a tightening circle situation. If we take these grain elevators out, our employment suffers, our distributors in chemical and farm implement businesses suffer, our local merchants suffer, our bankers suffer, our Government suffers with the PCA and FmHA bankruptcies that they will have to swallow.

Our land values are impacted. It's an ever-tightening circle. So the question then becomes, "What now, what shall we do?" We are smarter but we have still got to survive the current situation.

With the PIK program, the crop swap in place, it seems the most expeditious way, even though it's not going to be a 100 percent solution, would be to allow the PIK program and the crop swap to be expanded to include these elevators, and keep our economies operating.

Senator PRYOR. I really appreciate your comments this morning. Thank you so much.

Mr. BERNARD. Next is Davis Biggs, a farmer from Hughes.

Mr. BIGGS. Well, I want to congratulate the Senator on the good job that he's done first, as everybody else has.

Senator PRYOR. Well, thank you.

Mr. BIGGS. Well, congratulations, Senator, for being here.

Senator PRYOR. Thank you, sir.

STATEMENT OF DAVIS BIGGS

Mr. BIGGS. I just came up with some thoughts the other day that are probably very much just farmer talk. But I was watching the television and I saw where in Memphis they unloaded several train loads of commodities to give out.

I had the thought that I was very proud of the fact that agriculture in this country has a surplus to divide for the needy. Which I think it is a good thing that we do have a surplus to provide the needy. School lunches all over, things that happen.

I think that the time has come when the provider needs some help. These farmers that have been hurt over the country in these grain elevator deals. So now I think the time has come that we put this PIK program back to work and try to put the farmer that has lost these things, that has produced this surplus for us where we can put it out to the poeple who need it.

I want to put those people that are producing this crop back in a taxpaying bracket. That's all I have to say.

Senator PRYOR. Thank you very much, Mr. Biggs. On several of these statements later on, I think in a little final summary I may just touch on some of the comments that each of you have made, I may save those up until the end if I might because we do have some other witnesses.

Any other comments from this particular panel? Steve, we thank you very much.

Mr. BERNARD. Thank you, sir.

Senator PRYOR. We appreciate it.

Mr. BERNARD. If you would like, I can recognize some of the people from Corning, Biggars, New Madrid, Mo., Hartville, Mo., and Humboldt, Tenn. They're all here. Any of you gentlemen like to stand? These people are all farmers from other areas and they, too, have lost grain in these elevators and are very concerned about this.

Senator PRYOR. Well, we're honored to have these people from other States and other areas joining us this morning. Steve, thank you very much.

Mr. BERNARD. Thank you; appreciate it.

Senator PRYOR. Our next witness on our official list, I believe, is David Owen Burton, with the Arkansas Farm Bureau of Jackson County. David, will you please come forward?

You have a statement that you submitted and I appreciate that. We would love to hear your statement at this time.

STATEMENT OF DAVID OWEN BURTON, MEMBER, BOARD OF DIRECTORS, ARKANSAS FARM BUREAU, BELLEVILLE, ARK.

Mr. BURTON. First of all, Senator, I do appreciate the opportunity to make this statement. As you said, my name is David Burton. I'm a farmer from Belleville, Ark., and a member of the Arkansas Farm Bureau board of directors.

I am reading and making comments on the position of the Arkansas Farm Bureau on the creation of a Federal Grain Storage Insurance Corporation. We, in the Arkansas Farm Bureau with over 115,000 member families, many of which live in a cropping area of

eastern Arkansas are quite concerned with what has happened in the bankruptices within the grain industry in recent years.

We are aware that this is not just a problem characteristic of Arkansas agriculture, but that bankruptcies have been commonplace in all industries. However, elevator bankruptcies are far more serious to a great many more people when they occur than most other types of bankruptcies.

We sincerely appreciate you and your staff for putting this proposal before the Congress and trying to help solve a very complicated problem. We are generally opposed to the establishment of the Federal guaranty funds to provide payments to producers of bankrupt elevators.

The national policy as passed by our delegates attending the American Farm Bureau convention is: "We oppose the establishment of Federal Guaranty Funds which might be used to pay producers for losses suffered for nonpayment of grain." If Federal guaranty funds legislation is enacted it should require approval by producer referendum before it is instituted.

As farmers we are concerned about having to finance yet another program run by Government to protect ourselves against some dishonesty, poor management, and perhaps our own poor choice in selecting who we do business with.

While this may be something to be considered in the short run we are leery of adding still another expense to farming that always will be there. We regret that the bill does not include provisions for reducing or preventing bankruptcies. Perhaps this asks to much.

But for elevators and warehouses just to go out of business and pass the loss onto customers they were promising to serve, just doesn't make farmers feel good about such a system.

We are not sure that this would lead to reducing the instance of bankruptcies among licensed elevators. We wonder if the funding provisions will not prove to be unrealistically low. Earlier experience with the FDIC program in 1934, indicated a substantial borrowing when the value of money was much higher it was necessary before there was sufficient moneys to make the program solvent.

Farmers are not so concerned about the small initial expense per bushel of financing the program. We are more concerned that money collected creates still another entity of Government, which has the potential of becoming another large nationwide bureaucracy.

The increased administrative cost to the elevator collecting and handling the checkoff that provides still another regulatory effort. The expense of which will be transferred to farmers storing grain.

There are several technical areas of the bill that need to be clarified before it becomes law. They include: (1) Which grain delivered to the warehouse is actually covered; (2) should other farm commodities besides grain, be included; and (3) which Under Secretary or Assistant Secretary in the USDA would be responsible for the program.

Mr. Chairman, once again we appreciate the efforts on the part of you and your staff in trying to help us work our way out of this devastating and sometimes frustrating problem of grain elevator and grain warehouse bankruptcies.

We particularly favor the producer referendum of the bill should our deficits and the bill be worked out, and then become law. Payment in kind for bankruptcies loss—we have received very preliminary copies from your staff of a draft bill to provide payment in kind, PIK commodities to farmers who have experienced a loss due to a bankruptcy of an elevator or warehouse.

This may have merit; we are not sure. So many bills and ideas are being advanced in addition to the current program announced by USDA that we aren't sure whether the farmer will be growing for the PIK program or for the market in the next few years.

In face of the uncertainty of the availability of grain at the current PIK program, we would like to reserve comment until after the current sign up is complete.

Senator PRYOR. Mr. Burton, thank you for your comments and in expressing your concern or opposition to the insurance program which would be in prospective bankruptcies, in prospective losses, in the future.

I did attempt last year to come up with some language that would get something on the table for us to look at in the Senate or in the House. I do note your concerns and I think you have some justifiable questions about the program, but I guess I have a question for you.

If this program is not enacted what sort of a program are we going to have? There's no other game in town. It's sort of like the PIK program. I didn't understand the PIK program totally, but I supported it 100 percent because I thought it was the only truck leaving the station.

Mr. BURTON. Well, first of all, Senator, I think Arkansas has taken the lead in providing some relief for—it doesn't return commodities or money for previous bankruptcies but our warehouse grain law, as we're now looking at it, does provide relief and it is designating who owns the grain.

This has been a big question among the bankruptcies. In allowing this grain to become an asset of the corporation, which in the first place it should not be. Something that doesn't belong to them, so how can it be an asset?

So, I think we in Arkansas are taking steps to solve part of this problem. The thing that concerns me about this—your bill, is the fact that it does create another bureaucracy and will it relax an elevator operator or owner's attitude about going bankrupt.

Senator PRYOR. In other words, you think that they might have a tendency to be more lax and fall into a bankruptcy situation?

Mr. BURTON. Yes; I understand your bill does provide some provisions for punishment, but I often wonder sometimes if an elevator operator getting away with $1 million is not willing to pay $20,000 and 3 years imprisonment, and then later on still have the money available to do as he pleases.

Senator PRYOR. Well, the other thing, just so I can stress for the record and for the audience today, we did because we knew it would be a controversial issue, I knew it would be. I felt like we have to address the issue somewhere down the line and I must say that I don't think we're addressing it at this point adequately.

But we did provide, of course, a referendum for the farmers themselves to vote as to whether they wanted to participate—

whether they wanted to have such a program and one, would they be willing to pay a small fee for the safety of their grain.

I stopped just a little while ago to have a cup of coffee with some farmers a few miles from here, about 30 miles from here. One or two in the crowd told me that they did not like the idea of having to pay an additional fee. So, that's exactly why we have these hearings and why we get an opportunity to participate in listening to people like yourselves to hear your concerns about it.

Your concerns will be noted and I really appreciate your comments.

Mr. BURTON. I would like to ask one other question.

Senator PRYOR. Yes, sir.

Mr. BURTON. Some gentlemen have mentioned the fact there's no cost involved in this bill. I can't see where there's no cost.

Senator PRYOR. It probably was in refernce to the bill compensating those farmers who have already lost grain. We're talking about two separate peices of legislation here. The bill where there's no cost would be the legislation compensating the farmers.

Mr. BURTON. Is this the payment in kind?

Senator PRYOR. The payment in kind.

Mr. BURTON. Well, there's got to be a cost to someone when you relay those commodities back to the affected person. There's got to be some cost involved.

Senator PRYOR. Well, there's already been the cost. And——

Mr. BURTON. Expenses have already been had.

Senator PRYOR. We're just trying to get the money where the losses were, and that's the purpose of that legislation.

Mr. Burton, we appreciate your comments this morning, and do you have any further statement?

Mr. BURTON. Thank you, sir I do not have any more.

Senator PRYOR. We appreciate your statement and thank you very much.

Our next witness this morning and our final witness before we have public comment, is Deloss McKnight. Deloss is, or course, the president or chairman, I guess, of the American Agriculture Movement in Arkansas. What is your title, Deloss? You've gone up in the world since we were in law school.

STATEMENT OF DELOSS McKNIGHT, NATIONAL VICE CHAIRMAN, AMERICAN AGRICULTURE MOVEMENT, INC.

Mr. MCKNIGHT. Senator Pryor. I'm a rice farmer from Cross County, Ark. appearing here today on behalf of the American Agriculture Movement, Inc., as it national vice chairman.

Senator PRYOR. Very good.

Mr. MCKNIGHT. And, we're here to speak in favor of both pieces of legislation which you have offered. It is our national policy to support these and our people throughout the Nation will be offering you every support that we can in favor of both of them.

Senator PRYOR. Thank you, sir.

Mr. MCKNIGHT. We appreciate, of course, you coming here and taking your time. We realize that you're extremely busy and we always hate to impose on your time, but we are grateful for you appearing here today.

We're grateful for your introducing both of these pieces of legislation, and we're very happy, of course, that you've recognized the efforts of Steve Bernard. I think every farmer in the United States, whether this bill passes or not, it indebted and owes a debt to Steve Bernard.

Senator PRYOR. I certainly agree.

Mr. MCKNIGHT. Like I said, we favor this Equitable Farm Compensation Act and I can't for the life of me understand how any farmer in the United States, or any farm organization, would oppose aiding fellow farmers who have been damaged by bankruptcy of an elevator. I would suggest, sir, that you make a little more clear in the bill that this farmer's loss is not just a bushel of soy beans or a bushel of grain at the market price on the date.

But he's lost interest on that money for a number of years, and I really think that the act could be made just a little more clear in that respect. It doesn't say that they won't compensate him, but it doesn't really say that they would. I think it would be real advantageous to these people if we're going to do anything for them, to do our best to go ahead and make them whole to that loss.

Senator PRYOR. I think you've make a good point. I thank you.

Mr. MCKNIGHT. We feel that these bankruptcies are the direct result of the embargoes. They are the indirect result, I think, of poor farm programs over a number of years. And, these are the band-aid type legislation that we have to have, but until we can get a farm bill that really will support agriculture like it properly should be, then these measures are absolutely necessary.

I'm very much in favor, our organization as you know, is very much in favor of a bill very similar to the Bumpers-Hodges bill which was offered in 1978. I think offered again in 1979. And, I hope again will be offered at sometime in the future.

We feel that forward planning should be available in agriculture like it is in all industry, and that perhaps while none of us like to operate under Government restrictions this is the only type of marketing planning that we can have is through Federal Government.

This should be done, we feel like, at a price support level that justifies being in business. But that's not before us here today, but we think that these are the underlying reasons that we've got these bankruptcies, the underlying reasons why these farmers, when they do get hit with a bankruptcy are unable to survive.

I'm very happy to see that you've introduced S. 534. We think this would be extremely helpful. We think it would be even more helpful if you would just remove the President's authority to impose on an embargo, except in time of war.

Beside that you would be doing the President a favor. You know we've had two Presidents that imposed embargoes, both of whom sought reelection and neither of whom were reelected.

Probably to some extent has to fall on the embargo. I know that Gerald Ford was hurt by the embargo and there's no doubt that Jimmy Carter was hurt by the embargo. So perhaps we should remove that temptation to commit hara-kiri more or less, and do away with it.

Senator PRYOR. I don't know of anyone in our country that was helped by the embargo.

Mr. McKNIGHT. I think as foreign policy goes it was a total failure.

Senator PRYOR. Right.

Mr. McKNIGHT. We didn't coerce the Russians to do anything, and really the 1975 embargo was supposed to live short fall embargo because we had a short supply. But I think it was adequate supplies for us to do our exporting.

Had we continued to receive the prices in 1975 and 1976 that we got in 1973 and 1974, we wouldn't be here today. We really wouldn't. These farmers could have weathered that bankruptcy without—with difficulty, but they could have weathered it.

As it is, they can't. And, that's not the end of it. We hear that there are 10 farmers involved. There are actually going to be others, because the trustee is attempting to set aside some payments that have been made to farmers.

And, if they set those aside as being a preference you'll have more farmers involved and it will be a disaster to them also. So, there's nobody that have profited by the bankruptcy failure, except maybe some stock brokers, or commodity brokers.

On the insurance aspect, Senate bill 550, we are in favor of this. Just like you said a minute ago as being the only game in town. We have fire insurance that we pay for. We have storm insurance that we pay for. We have available to us crop insurance if we want it.

I don't see that it would really be disadvantageous for the Government to make available to us insurance against elevator bankruptices. Your bill, I think, gives us a referral back to the farmers, you can vote on it and if 50 percent approve it well, we'll have the organization and the insurance available. But if they don't, then it disappears.

A way that might be—that everyone would be happy with would be to have it like crop insurance whereby the individual farmer when he delivers his grain, would have a place to check on the delivery ticket or the warehouse receipt, whatever, whether he wishes this insurance or not.

I personally would take it. I think we don't have any opportunity to have any of that type insurance, and we'd like to see it made available.

Senator PRYOR. You don't think that your membership would object to paying a small fee for this protection?

Mr. McKNIGHT. Well, I don't think they would. They don't object to paying fire insurance. They don't object to paying—I mean, this is our responsibility ulitmately.

Senator PRYOR. I understand.

Mr. McKNIGHT. We're protecting our grain just like we protect our homes against fire, our crops against disasterous weather conditions and other things. It's up to the individual to protect himself. We can't rely on the Government to come to our rescue just because we've got a grain elevator going bankrupt.

We'd like to and we're urging you to in this Equitable Farm Compensating Act, but I don't think you'll find your city colleagues are going to be willing to do that on an annual basis. I really doubt that.

Senator PRYOR. I doubt it will be a year after year proposition. I think you're absolutely right.

Mr. MCKNIGHT. Right. I think they're willing to help us through a hard time, but I think they rather us to have something that we can organize among ourselves and pay for ourselves, and this is the ideal thing. Perhaps there are other things that might be better.

You can always say, well, he should have done so and so. But the fact remains they haven't. This is the best yet and we'd like to see it.

Senator PRYOR. Well, I have no pride of authorship. If you come up with a better plan I will be willing to try to support it, I'll tell you that.

Mr. MCKNIGHT. Well, I'm satisfied with your representation, Senator.

Senator PRYOR. Thank you.

Mr. MCKNIGHT. We're very happy that you're doing something.

Senator PRYOR. Well, also I might just mention that before the embargo, the Soviet Union used to import 70 percent of their wheat from the United States, and now they import about 17 percent of their wheat from the United States. And, they're having an increase in imports on their side and that has been since the embargo.

Mr. MCKNIGHT. Yes, sir.

Senator PRYOR. We can see the devastating effect of that embargo.

Mr. MCKNIGHT. In 1980, I secured from the—through your office the sheets from the Department of—the trade——

Senator PRYOR. U.S. Trade.

Mr. MCKNIGHT. Department of Commerce. The exports to the Soviet Union and the imports from the Soviet Union, and it was astonishing that we were shipping motors that would go into their trucks and tanks and restricting grain.

If that's foreign policy I must have a total failure of concept. It looks to me like we ought to be willing to feed them but not give them something to fight with.

Senator PRYOR. That's exactly why, in my opinion, we need someone in the State Department that knows something about farmers and are willing to stand up for farming interests. We don't have that today.

Mr. MCKNIGHT. Yes, sir, absolutely. I think we need somebody in the State Department that knows something about foreign policy.

Senator PRYOR. You're quite right. thank you, Mr. McKnight.

Is Steve Bernard still here? Did Steve have to leave? Steve, if I could, could I have you and John back up just for a moment? I have three or four questions for you and John Stipe for the record.

First, do you have any idea of the number of farmers in this part of the State that have been adversely affected by the bankrupt elevator situation? I'm just talking about kind of general figures.

Mr. BERNARD. No, I don't have an exact figure, but like I said in my testimony, there's 10 or 12, I think, in the St. Francis, Lee County area. And, up in the *James Brothers* case, and things that happened up in that part of the State.

I would assume that we probably had 50 to 75 farmers varying in degrees. Some of them have lost 50 bushels and some of them have lost 50,000 bushels.

Senator PRYOR. So it's not only the number of farmers, it's the impact upon not only their families but the communities and the entire economy.

Mr. BERNARD. That's right.

Senator PRYOR. The impact. So we've got not only numbers of farmers but also the economic impact that ultimately flows. Now, Mr. Stipe, how many of you think your lenders or other farmers in your area might be helped by the passage of the PIK extension idea of compensation? Do you have any estimate there? It would be a guess.

Mr. STIPE. As far as the warehouse figure--PIK, you're speaking of, Senator?

Senator PRYOR. Yes.

Mr. STIPE. Well, Steve's figure would be probably closer to right. Now I don't know of any of our other farmers that were involved in any of the outlaying elevators that would be covered by this. Now, we've had other bankruptcies prior to 1979, Senator, and you're not going back far enough to pick those up I understand.

Senator PRYOR. Going back to December 1, 1979.

Mr. STIPE. Yes, sir, well, we have one elevator that went bankrupt in—well, they never declared bankruptcy, but it went under in 1976, and the one I referred to earlier here that farmers are still suffering from. This could be—Steve's count would be fairly accurate, Senator.

Senator PRYOR. All right, let me ask this. This is a question to Steve. Steve—oh, go ahead did you have——

Mr. BERNARD. Someone just pointed out a figure to me. I was not aware of how many people were involved in this thing. In northeast—farther up in northeast Arkansas, *James Brothers*, and I think it's been another one or two up there. They just told me it was about 250 or 300 people involved, which it looks like Arkansas is probably or has probably got 10 percent of the total in the country.

If that's the case there—we said there were 3,000 farmers affected nationwide.

Senator PRYOR. I think around 3,200 farmers nationwide.

Mr. BERNARD. So there's been about 10 percent of them——

Senator PRYOR. Twenty-five million in losses. Now, you—Steve, you really are kind of giving me a lot of undue credit here about this legislation. You're kind of the father of this whole bill, this whole concept.

Is there anything that you see right now that needs to be added or subtracted from this legislation as written to make it better? If so, please feel free to make that suggestion.

Mr. BERNARD. As pointed out by Deloss McKnight a minute ago, and I gave Tom Cortway earlier, the change that I had suggested in the bill, a bushel for a bushel—a man lost—we're going to use soybeans as an example.

In 1980, a man looses a bushel of soybeans—he had them priced and they were worth $8 a bushel. If we repay that same man with a bushel on equal basis a bushel today, he's able to get $6 for them.

He gets three-fourths of his original loss back, plus, as pointed out in my illustration he has lost 15 percent, 16 percent, and 17 percent of the total loss in the last 3 years.

So he only comes up with less than half of the money that he has really lost. To make it a true compensation the man will have to be paid the equivalent of at least two bushels of soybeans, if soybeans are the example, for each bushel he's lost.

Senator PRYOR. I understand.

Mr. BERNARD. To make him anywhere near whole again, and that probably still wouldn't do it.

Senator PRYOR. That's a very good suggestion. I don't think of any other questions that have not been covered. John, do you have——

Mr. BERNARD. Could I add one——

Mr. STIPE. I would like to add one comment, Senator, the idea of timeliness has been mentioned from two aspects. One, right now the farmer is needing some immediate action so he can go ahead and farm this year.

The second is from the Government aspect. Right now they're paying storage costs on this grain.

Senator PRYOR. Right, that's a very good point.

Mr. STIPE. We could save the Government a lot of money if we could move this on and get it into effect in the very near future.

Senator PRYOR. Fine. Thank you so much. Steve?

Mr. BERNARD. I'd like to point out one thing along that line. In the bill, I think that from the date the bill was enacted, the Secretary of Agriculture had 60 days in which to publish in the Federal Register the list of all the bankrupt elevators and then there's 60 days in which the farmer has to respond.

Then there's 30 days for the Secretary to decide whether that is—that loss has been documented enough to be enacted. And, we start adding 60 here and 60 there and 30 here and 45 there, and the first thing you know this—these people are going to have another year's interest on this loss.

Senator PRYOR. That's right.

Mr. BERNARD. And, then two bushels for one will not pay for it. So, something needs to be moved on rather quickly.

Senator PRYOR. That's a very good point.

Mr. BERNARD. There's two or three people I know of that will not—locally, and I would imagine probably 50 or 100 of these people in Arkansas, Tennessee, Mississippi, Louisiana, and Missouri will not be able to farm without a promise of this or some other type miracle this year.

Senator PRYOR. Very good. Steve, thank you and John. We appreciate that.

I'd like, if I might, just to make two or three comments here on some of the statements that have been given. It'll just take a moment, in summary. I think one of the strangest, most ironical situations for any country to find itself in is about 95 percent, it seems today, of all the agriculture legislation that we're looking at in Washington, in all the committee hearings that we're having and all the discusssions that we're engaged in, it's kind of ironical that all of them are dealing with how to get rid of the surplus.

You know it's been brought up that we are a bountiful country and I guess it's better to try to find a way to get rid of the surplus than how to feed the starving in our own country. But, you know, 15 million people in this world starved to death last year.

Somehow or another we never have been able to devise that formula of distribution or payment or whatever, to get our surplus to those people. Somehow or another I think in our efforts that must be our goal. We've got a long way to go to reach that decision as to how to strike that balance.

Second, I'd just like to comment relative to embargoes and so forth using food as a weapon. I think for too long we've had a policy in the country and it's been through several Presidents, it's not just Democrats or not just Republicans, it's been brought out.

But several administrations have used food as a weapon. I think that is a State Department sort of mentality, that they have gotten us into and they convince Presidents, I think, and we've got to use this food as a weapon.

Well, I don't think food can be used effectively today, and in our international situation, as a weapon. But I do think that we can use food in another way. I think that we can use food as a tool, not a weapon, but as a tool.

There's ways to achieve an end, and I'll just cite an example once again. John Stipe came over to our Little Rock office about 6 or 8 weeks ago and we visted for awhile. He came up with a suggestion that I go back to Washington and look at the concept of reinstituting a very primitive and tribal custom known as barter.

When John mentioned that to me somehow or another it sounded simple, and it sounded workable, and it sounded right. John, since that visit we've had I must tell you that I think we've made a little bit of headway. We haven't gotten there yet, but we've asked for some studies to be commissioned. We hope they don't take too long.

I don't think it will be hard to pull those facts and figures out. Of countries like Mexico, Venezula, and Peru, like some of the Third World or developing countries that do not have currency today, to buy food for their people.

But yet they have value, they have minerals, they have resources that our country needs. We have the food to trade them. I think there's some 13 to 15 countries now engaged with other countries in barter agreements. Of trading mineral for mineral, or whatever, and I would like to see us very, very soon look at this as a concept.

In a hearing before the Finance Committee of which I am a new member, I recently mentioned this, John, to Bill Brock who is our Trade Representative. He came back from Geneva all depressed about the GATT proposals and the EEC, what all these people are doing to us, not only to farmers but to us generally in our trade situation.

I asked him about the concept of barter. They are not doing much on it now, but we've got to keep reminding them to try to look at that possibility. Also, with OPEC falling apart, I think it would be a splendid time right now to engage in barter with Mexico for their oil to defend or fill up our strategic petroleum reserve.

I think it's the opportune time. I think we could do it quickly, efficiently. I think we could trade them grain that they desperately need. So, I think that once in awhile we hear that history repeats itself, and we can certainly learn some lessons from history.

We've got to live in the present and the future. Don't get me wrong, but sometimes some of those old ways and old customs were not too bad, and we can expand upon them and possibly use them effectively to help our people.

Last Friday I was on the plane; I had to go and make a speech down at a university in Florida, and then I had to fly back to Hot Springs and ultimately Fayetteville, and in that whole process I kept reading in the papers that we were renegotiating some of the loans with Brazil.

Well, once again I think we did not learn a lesson in our country, and I wish that I had been on—frankly I wish I had been aware of this loan, and maybe we could have changed the course of it a little bit.

We, once again, loaned Brazil $400 million. What we failed to do is establish any strings. We failed to establish any pressure points. I think it would have been a perfect opportunity for us to have sent a necessary message or a tie to restrictions to the Government of Brazil that they would no longer engage in unfair competition with soybeans and other—poultry and other commodities, other crops that they're unfairly competing with us at this time.

In other words we had an opportunity and we failed in that opportunity to exercise that leverage that we have. So I'm hopeful, Tom, that we can keep better track of some of these loans that are coming up, because we're going to see a lot of these loans in default. We're going to see a lot of these countries under pressure, and I think that we can utilize the leverage that we have.

Once again using leverage in a proper way that will allow us to compete fairly with EEC and the GATT partners. I think just one or two other comments. One is about OPEC. January 23 is going to be probably one of the most historic dates in all the history of our economic world, because that's the date that OPEC fell apart.

We're about to see plummets, it appears that this point, in the price of fuel and in the price of oil. Some are even saying down to $20 a barrel.

It's always been my understanding that about 17 percent of the cost of agriculture that the cost of doing business, as a farmer, is fuel and the cost of energy. It may in some instances be lower, some higher, but I think one, we're all about to get a break there.

I think it's going to mean a lot more consumer dollars that are going to be able to be spent that were being spent there. And, it may give all of us a little breather and certainly a break that we've been needing since 1978, since the formation of OPEC and since—not the formation of OPEC but since we've seen those fuel prices escalate to the point that they have.

I just read on Saturday in the Wall Street Journal that for every penny that a gallon decreases United Airlines saves $14 million. So, if it goes down 10 cents a gallon they save $140 million.

I would say the cost of running the whole Government would benefit by some billions and billions of dollars in fuel costs and gasoline for vehicles and on down the line.

Second, I'm just very hopeful that we're going to continue seeing interest rates subside to some degree. But I don't want to get your hopes up too much, because if our deficit in this country continues to rise as it is today, very honestly I think that interest rates will start moving upward once again.

When we start as a government going into that pool of money and borrowing money to run the Government, to run all the Federal programs that we have to maintain, all the services that we have to perform, I think that we're going to basically sop up and use up that supply of money that could be utilized for private capital.

So we're all glad that interest rates are going down. Twenty-four months ago interest was 20 percent. Today is a little somewhat—well, depending on—it's not 20 percent any more. I don't even want to quote an interest rate today, but it's almost half that.

But I would say don't become so exhilarated about interest rates going down that you don't plan possibly in the future for interest rates taking another upswing in the coming month or maybe a year ahead, because unless we do something pretty dramatic about the deficit I think we're in some real trouble.

There's one man that has—that some of his colleagues at the coffee shop awhile ago expressed an interest in making a statement. I'd be glad to let him do so should he desire. Mr. L. E. Vanderford, would you like to say anything?

Some of your cohorts and colleagues at the coffee shop this morning said that I would recognize you as a young version of Santa Claus. I pointed you out, so should you desire to say anything we'd be glad to hear from you.

Mr. VANDERFORD. Senator, I appreciate the opportunity to make a comment. I hadn't planned to say anything. I would like to point out that the warehouse industry is certainly my prime interest. There has not been a failure in the Federal warehouse system in the Memphis division, ever.

That's the only comment I have

Senator PRYOR. I see. I appreciate that comment.

Yes, sir? Let me do this if we might. If you do have a statement or question maybe we could just use this standup microphone. If you would just come and state your name for the record.

STATEMENT OF JAMES SOLOMON

Mr. SOLOMON. My name is James Solomon and I'm a farmer in the Hughes area. I would just like to comment on something you were talking about a while ago if we're going to diverse a little bit, about the Brazil situation.

Right now at this present moment Dr. Hardwick is in Brazil showing them how to breed soybeans. He is a gentleman who has put us all in the farming business as far as growing beans. I think if we're going to straighten the whole situation out we're going to have to draw the line.

It's not fair for all these people sitting here going broke and the USDA is financing our plant breeders to go to Brazil and help them get on to produce beans to sell on the world market.

Senator PRYOR. That is a very good point.

Mr. SOLOMON. You know this situation is very complex. I am a strong supporter of you and your appearance on "60 Minutes" and some of your comments to the simplicity of these things that have been quite admirable. But I don't think also, while I'm on the soapbox, that it's fair for the Government to license International Harvester to go over there and build combines for the Russians, and then embargo our grain to them.

I think something needs to be done. The comment the gentleman from the Agriculture Movement said about someone in the State Department should know something about agriculture. We've got a tremendous selling job that we're going to have to do.

We've got 2 percent of the population farming. We got 98 percent we're going to get out there and convince that we need something done. We got a—a good friend of mine, a farmer here that's done—the only one that's done a good selling job here all morning was Davis Biggs when he said we have surplus we can give to the poor.

We're going to have to hit more upon positive aspects than getting up here and just crying over spilled milk.

Senator PRYOR. Yes.

Mr. SOLOMON. We're going to have to go forward and come up with some positive plans, help from the Government. We can't get the Government out of it to get this thing back on the road. I would like to see you do your best to try to do something positive in addition to helping bail out these people who have lost money in bankrupt grains.

Senator PRYOR. I'm very appreciative of your comment. Thank you so very much.

Mr. SOLOMON. Thank you.

Senator PRYOR. Yes, sir, if you will please state your name.

STATEMENT OF PAUL HUGHES, PRESIDENT, FARMERS SOYBEAN CORP., BLYTHEVILLE, ARK.

Mr. HUGHES. I'm Paul Hughes, the president of the Farmers Soybean Corp. in Blytheville, Ark., which is a stock company that's been in the grain business for about 32 years, and I'm also secretary of the Mid-South Soybean and Grain Shippers Association.

I just wanted personally to take this time to point out some of the things that we pointed to your then assistant, Dennis Robinson, in July when he brought your bill over to our meeting in Memphis.

But the thing we feel real strongly about is one, that is has got to cover all warehouses. You cannot pick and choose which warehouses are in it unless you take the Agriculture Movement man who advised that they can buy the insurance as they want to or not, but if one warehouse got the choice to use it and the other one has got the choice not to use it, then that might make people go one way or the other.

The other thing we are—and we appreciate it, it is in the bill. That the farmer ought to assume some risk where they trade. Because most time, most elevators going bankrupt throw up some signals of the fact that they are going bankrupt, they start paying too much money for grain, they start paying a little extra money for grain if you wait a week to get your money. And, this type of thing.

And, we don't want it to be to the point where a farmer will say well, I think he's going bankrupt but the Government will pay me anyway, so I'll just go ahead and try to get that extra money. And, the other thing that I think that you have done is real well is we've talked about the FDIC.

That cost over $125 million a year to administer. We do—and there's about the same number of grain elevators as there are banks. We do not believe that we need a deal that costs $125 million a year to administer. And, we need to keep this on a low-cost basis if it's possible.

And, then I'm probably wrong and this is probably not the place to bring it up. But I just want to question your figure of $25 billion, and you may be closer to right than I am. But that would be, if 125 elevators are correct, that's a loss of $200 million in elevators. And, at $4 a bushel for grain, each one of them would have had to have 50 million bushels.

And, so I want to question that.

Senator PRYOR. Mr. Hughes, that may have been a figure that in the entire history of elevator bankrupticies. I don't know whether it was the history, say going back to December 1, 1979, or not. It may have been going back——

Mr. HUGHES. But the losses are substantial but I just question if it's been $25 billion of—up to this point.

Senator PRYOR. And, also it could have been the ripple affect through the economy of tax losses and the buying power lost, et cetera.

Mr. HUGHES. But I guess in summation that I would like to say that we do appreciate your effort to give some protection to our customers and some assurance that where they trade they will get their money.

Senator PRYOR. Mr. Hughes, thank you so much. Is there another person that would like to make a comment?

Yes, sir, come right forward please.

Mr. BERNARD. Senator, I think that figure was $24 or $25 million rather than billion. I think that was the thing.

Senator PRYOR. I think that's probably correct. The figure should be $25 million.

Yes, sir, would you——

STATEMENT OF ELFORD DAVIS, REPRESENTING MID-SOUTH FARM EQUIPMENT DEALERS ASSOCIATION

Mr. DAVIS. Senator, I'm Elford Davis. I'm a local agricultural dealer here in West Memphis, and I was asked to come forward this morning on behalf of the Mid-South Farm Equipment Dealers Association which consists of the dealers in Arkansas, Mississippi, Tennessee, and the Boot Heel of Missouri.

We just want you to know that we support you wholeheartedly in the two programs that you have going. And, please excuse my throat.

Senator PRYOR. Thank you very much. Thank you so much. Would there be another statement or question? Well, yes, Charles.

Mr. ADAMS. Yes, sir, I want to reiterate what Mr. [inaudible] said in essence. It seems it would only be fair that in order to open a

bank you have to comply to certain rules and regulations. The way I understand it now, I could go down the street, put up a sign that I'm in the grain business.

And, should the insurance come into effect, I would not be for a sound elevator subsidizing an inefficient unlicensed elevator. And, I hope out of all this that you may already have it in your bill, is that in order to be a public facility, it must be strict rules and regulations followed.

And, if—as he mentioned in a case of those that are federally licensed there's not been a failure.

Senator PRYOR. You know we're seeing some of that same discussion right now in some of the money market funds of banks and S&L's or credit unions have to go through all sort of regulation, chartering, and all like this. Many of the other funds are not being regulated nor insured. So we're seeing a great deal of that discussion come forward there.

I think there was someone else that may have wanted—yes, sir, come forward.

Mr. LEWIS. My name is Larry Lewis, Senator. As a farmer and as a member of the American Agriculture Movement, we appreciate your listening and what you're doing for us. Due to recent bad publicity I would like the record to state that members, farmers here that are members of the American Agriculture Movement conducted themself in an attentive, undisturbing manner.

And, the presentation by Mr. McKnight, who is national vice-chairman, was in no way radical or undisturbing to our wants and needs. Thank you.

Senator PRYOR. Well, thank you. Thank you very much.

Mr. LEWIS. And, a little bit of addition. We know that you are listening to us now. We're not radical any more, and the more members we have the better you'll listen, right?

Senator PRYOR. Well, listen, I'm not saying that you ever were radical, but I'll just say this. I've always listened to you. I haven't done everything maybe that you wanted, but I've always listened to you.

Mr. LEWIS. Contrary to popular belief then. Thank you.

Senator PRYOR. Well, thank you so very much. Thank you for that statement.

Any other comments or statements?

VOICE. I've got a question Senator.

Senator PRYOR. Yes, sir.

VOICE. I don't want to come up there, but all due respect to Mr. Burton, who was he speaking for? Was it the Arkansas Farm Bureau, or his chapter or——

Senator PRYOR. Well, now that gentleman was—Mr. Burton was with the Jackson County Farm Bureau, and I don't know——

Mr. BURTON. Arkansas Farm and American Farm Bureau.

VOICE. Are you speaking for the State?

Mr. BURTON. And, American. American policy is what I quoted.

VOICE. I'm a member. I just wanted to know where we stood.

Senator PRYOR. Well, I'll tell you, that's what's good about this country. You know you don't have to agree all the time with each other and it's good to have meetings like this where you can come and discusss some of these differences in a legitimate fashion.

If there are no other comments I, at this time—is there any other thought that I might have? If there are any of you on the panels who would like to supply any information or facts and figures about more specific numbers that we requested, we'll leave this hearing record open for about 2 weeks.

We'll make certain that those written statements will be incorporated into the final hearing transcript. This has been a very, very fine hearing this morning and we're—yes, sir——

Mr. BERNARD. What would be the procedure if someone wanted to respond to what you've just mentioned? Say if we have a specific case that someone would like to get into the record or tell you about—should they write you or they should leave it with me?

Senator PRYOR. If they would write me a letter, what I will do is just include that letter into the official transcript. It probably should be requested that it be included in the transcript, and we'll certainly do that. That's a great idea, Steve, should they—the Government printing costs are not going to be all that high on this one. This is a short hearing.

Thank you very much for coming each and every one of you.

Whereupon, at 10:52 a.m., the committee adjourned, subject to call of the Chair.]

ADDITIONAL MATERIAL

[The following material was furnished by Senator Pryor:]

[Floor speech of Senator Pryor concerning S. 550]

FEDERAL GRAIN STORAGE INSURANCE ACT OF 1983

Mr. PRYOR. Mr. President, I want to take this opportunity to address the Senate on an issue that has, unfortunately become a factor in the lives of American farmers. This subject has captured regional and national headlines and has generated discussion at all levels of Government and within the agricultural community. Farmers, already plagued by high interest rates, high fuel costs, and high seed and fertilizer costs, have now been hit by still another problem—bankruptcies and failure of grain elevators.

More than 110 elevators have failed in the United States in recent years, leaving in the lurch at least 3,200 farmers with over $25 million in grain. While the number of occurrences of grain elevators is relatively small compared to business failures in general, few other types of bankruptcies can have such a devastating effect on farmers who, in effect, are innocent bystanders. We have heard far too many stories of financial failure.

On April 7, 1982, the 20-year old Coast Trading Co. filed to reorganize under chapter 11 of the Federal Bankruptcy Law. Coast had a six-State chain of 22 grain elevators, feed mills, barge facilities, and other related services. The debt includes $14 million to secured creditors and $20 million to an estimated 200 unsecured creditors—mostly farmers and local elevators that sold Coast Trading.

In Stockport, Iowa, an elevator collapsed 2 year ago where too much grain was delivered without receiving a check, too little warehoused grain was secured by a warehouse receipt, and too much grain was delivered to be paid for later. This is really a farmer's unsecured loan to the elevator—and then the sudden, unexpected bankruptcy.

In Montana, North Dakota, Kentucky, Louisiana, Missouri, and Arkansas, similar stories have unfolded.

While it is understood that farmers themselves need to become alert to such danger signals as an elevator that offers a higher price if the farmer agrees to wait a few days, or offers to store grain at a cheaper rate, or even fails to give proper warehouse receipts, the time has come for the Congress to offer the farming community some statutory protection.

More and more State legislatures are recognizing their role and responsibility in developing sound criteria upon which to audit and regulate grain elevators. Additionally, as Paul Hughes, a constituent of mine, said recently in the Delta Farm Press, "As long as you make it possible for someone to succeed, then it also will be possible for them to fail." However, State and Federal Governments must not ignore this critical situation and it is important for the Congress and the State legislatures to take seriously the duties of Government in these situations.

Legislative reforms are under consideration that would change bankruptcy laws, increase oversight of warehouse operations by the Federal Government, and insure farmers against losses.

For farmers and other individuals and businesses caught with assets in a bankrupt elevator, the issue can be extremely frustrating. Those with warehouse receipts or, in some cases, scale tickets marked for storage, will be among a preferred group of creditors and generally have a good chance of recovering a large percentage of the loss. But farmers who have sold grain to a failing elevator under a deferred payment arrangement fall into a nonpreferred class of general creditors and may recover little of their loss. And, in either case, the claims process can take months or possible years to complete.

I have supported attempts to amend Federal bankruptcy laws to accomplish the following: First, establish a time limit on the disposition of elevator assets; second, establish a priority disposition system; and third, allow a farmer to impose a statutory line in a deferred payment arrangement. It has been noted that these changes are far-reaching and could have secondary effects, one of which might be that the statutory lien could jeopardize the financing of elevator operations. Additionally, this proposed change might cause bankers and lenders to face new risks since the lien provisions affect clear title to commodities used as collateral. Also, some commentators have said that these amendments interfere with priorities set by States in bankruptcy proceedings. According to a statement by Brian Crowley, U.S. General Accounting Office.

"The best overall and latest available data on past bankruptcies indicate that about 2 percent of the approximately 10,000 grain warehouses nationwide have gone bankrupt between 1974–1979. To estimate how many warehouses might be in financial trouble, we applied certain financial ratios and self-developed criteria to data reported to USDA by a random sample of 400 grain warehouses under Federal jurisdiction. We found that 19, or 4.75 percent, of the sample warehouses met our criteria for being in financial trouble. Based on these results, we estimate that about 300 warehouses may be financially unsound. At the 95 percent confidence level, this number could range from 173 to 427 warehouses."

Mr. Crowley further added "that the Federal programs, no matter how effective, do not provide protection for all grain depositors." About 36 percent of grain warehouses are subject only to State requirements, which range from nonexistent to very stringent.

Therefore, it is my belief that a program is needed that will apply to situations throughout the country and that will offer protection to farmers. Finally, it will help restore the needed confidence between farmer and elevator.

To accomplish these goals, I am introducing legislation to establish a Federal Grain Storage Insurance Corporation. The program would be financed and governed by farmers through a corporate board and be established within the U.S. Department of Agriculture. This plan will give the farmers of this country the opportunity to voice their approval or disapproval of the insurance concept by voting in a referendum. The referendum will allow them to express support for a program under which a portion of their grain is assessed in return for the protection offered by the Corporation. By this method, just as farmers now support checkoffs for research and promotion, they could support a similar checkoff to insure their season's labor.

While some States, like Oklahoma and South Carolina, have already set up statewide insurance programs and many other States are showing interest, it seems logical that a national program that offers the advantages of a broad financial base and uniformity across State lines would be attractive to producers.

In the same vein, this program should not circumvent efforts that are now occurring to tighten the fiscal management of grain elevators. This program should further this cause. Farmers may even be wary of any warehouse that fails to meet requirements for qualification, just as depositors may be wary of a bank or savings and loan association that does not qualify for FDIC or FSLIC protection.

This bill also changes the criminal penalties for persons selling grain without proper title.

It is also hoped that by giving broad authorities to the Board of the Corporation, the Board can adequately address such legitimate concerns such as these: First, how to deal with variations in business risks; second, how much responsibility the producer should assume; third, how much protection should be offered and whether the assessment should vary between commodities, and fourth, whether a uniform warehouse receipt or scale ticket should be used by participants to increase uniformity.

One change which has been made from the previous legislation is that insurance benefits under this bill be paid based on the average market price for the commodity for the 90 days preceding the date of insolvency. The earlier version of this bill insured the grain based on the market value on the date of insolvency. An average is better so that any fluctuations in the market are evened out.

I urge the consideration and support of my colleagues for this measure. We need to work together to try to alleviate a problem we find in our agricultural communities. I believe this is a step in the right direction.

I ask unanimous consent that the text of the bill, a summary and highlights of the bill, be printed following my remarks.

There being no objection, the material was ordered to be printed in the Record.

[Floor speech of Senator Pryor concerning S. 596]

GRAIN STORAGE COMPENSATION ACT OF 1983

Mr. PRYOR. Mr. President, every Member of the Senate has heard horror stories about farmers who have worked many hours planting and harvesting a crop only to see it go down the drain when a grain elevator becomes insolvent or bankrupt. This has become a very serious problem the last few years. I have seen figures which show that over the last few years there have been almost 125 elevator bankruptcies. This has cost over 3,500 farmers more than $25 billion and has resulted in a great deal of human suffering.

There have been many changes proposed at both the State and Federal levels to deal with this situation. I have supported amendments to the Bankruptcy Act, initiated by the Senator from Kansas, Mr. Dole, which would set up expedited procedures for farm crops and would also clarify title to the grain. In addition, I have introduced legislation designed to protect against future losses by setting up an insurance fund, funded by farmers, that would compensate them for losses resulting from the insolvency or bankruptcy of a grain elevator. Both this legislation, and the Bankruptcy Act amendments would deal with insolvencies that might occur in the future. I am convinced, however, that we can do something to help farmers who have suffered losses the past couple of years due to the insolvency or bankruptcy of a grain elevator.

Mr. President, today I am introducing the Grain Storage Compensation Act of 1983. This bill will expand the PIK program to allow farmers who have suffered a loss due to the insolvency or bankruptcy of a grain elevator to receive PIK commodities. With an enormous surplus, and many communities economically wrecked due to the collapse of a local grain elevator, it seems to me that we should provide this assistance. Our farmers are the envy of the entire world, yet many of them are on the edge of an economic cliff, largely through no fault of their own.

Several features of this bill are important, and I would like to point them out. First, it only applies to insolvencies or bankruptcies occurring on or after the Soviet grain embargo and the date of enactment of this bill. Since it is narrowly defined period, it is not open ended. The elevator insurance legislation I have proposed will deal with prospective insolvencies. Second, the first date involved—the grain embargo—is important because it has such a profound effect upon the commodity markets and international trade. Third, the program will be conducted by the ASCS and will require no additional personnel. A farmer who has suffered a loss will have to establish this fact by competent evidence before he can receive PIK commodities.

Mr. President, the farmers of this country have been devastated the last few years by declining prices and rising production costs. Net farm income has fallen, and exports have declined for the first time in over a decade. These problems are serious enough, but imagine the frustration and pain a farm family feels when an entire year's work is lost. Many of them can never recover. Therefore, Mr. President, I submit that we expand the PIK program in a way which is reasonable and equitable and will literally bring back many small towns in this country. I urge my colleagues to join me in this effort and ask unanimous consent that the text of the bill be included in the Record.

[S. 550, 98th Cong., 1st sess.]

A BILL To establish a Federal Grain Storage Insurance Corporation to protect farmers who store grain in certain warehouses against losses caused by the insolvency of such warehouses, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Grain Storage Insurance Act of 1983".

DEFINITIONS

SEC. 2. As used in this Act, unless the context clearly requires otherwise—

(1) the term "Board" means the Board of Directors of the Corporation;

(2) the term "certified warehouse" means a warehouse which is certified pursuant to section 10;

(3) the term "Corporation" means the Federal Grain Storage Insurance Corporation established pursuant to section 3;

(4) the term "Department" means the Department of Agriculture;

(5) the term "depositor" means the owner or holder of a scale ticket, a warehouse receipt, or other original source document issued by a certified warehouse

for grain, who resides in a State and who is entitled to possession or payment for the grain represented by such ticket, receipt, or other document;

(6) the term "grain" means barley, corn, cotton, dry edible beans, flaxseed, grain sorghum, oats, rice, rye, soybeans, sunflower seeds, wheat, and any other commodity which is commonly classified as a grain and traded at, or stored in, a warehouse;

(7) the term "warehouse" has the same meaning given to such term under section 2 of the United States Warehouse Act (7 U.S.C. 242);

(8) the term "Secretary" means the Secretary of Agriculture; and

(9) the term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific.

CREATION OF CORPORATION

SEC. 3. There is hereby established within the Department a corporation to be known as the Federal Grain Storage Insurance Corporation. The office of the Corporation shall be located in the District of Columbia.

MANAGEMENT OF CORPORATION

SEC. 4. (a)(1) The management of the Corporation shall be vested in a Board of Directors, subject to the general supervision of the Secretary.

(2) The Board shall consist of—

(A) the Manager of the Corporation;

(B) the Under Secretary or Assistant Secretary of Agriculture responsible for the Federal grain storage insurance program;

(C) the Under Secretary or Assistant Secretary of Agriculture responsible for the farm credit programs of the Department;

(D) two persons from private life who are experienced in the grain storage business;

(E) eight persons from private life who are actively engaged in farming;

(F) one person to represent the interests of private lenders who make a substantial portion of their loans for agricultural purposes and to represent the interests of the Farm Credit System, as defined in section 1.2 of the Farm Credit Act of 1971 (12 U.S.C. 2002); and

(G) one person who is experienced as a trustee in warehouse bankruptcies.

(3) Members of the Board described in clauses (D) through (G) of paragraph (2) shall be appointed by, and hold office at the pleasure of, the Secretary. The Secretary shall not be a member of the Board. In order to insure that diverse agricultural interests in the United States are at all times represented on the Board, persons appointed under paragraph (2)(E) shall be appointed from different geographic areas of the United States.

(b)(1) Any vacancy in the Board shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(2) Eight members shall constitute a quorum for the transaction of the business of the Board.

(c)(1) Members of the Board who are employed in the Department shall receive no additional compensation for their services as Directors, but may be paid necessary traveling and subsistence expenses when engaged in business of the Corporation outside of the District of Columbia.

(2) Members of the Board who are not employed by the Federal Government shall be paid such compensation for their services as Directors as the Secretary shall determine, but such compensation may not exceed—

(A) the daily equivalent of the rate prescribed for grade GS–18 under section 5332 of title 5, United States Code, when actually employed; and

(B) actual necessary traveling and subsistence expenses, or a per diem allowance in lieu of subsistence expenses, as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently, when on the business of the Corporation away from their homes or regular places of business.

(d) The Manager of the Corporation shall be its chief executive officer and shall have such power and authority as may be conferred upon him by the Board. The Manager shall be appointed by, and hold office at the pleasure of, the Secretary.

POWERS

SEC. 5. (a) The Corporation—

(1) shall establish and administer a Federal grain storage insurance program in accordance with this Act;

(2) shall investigate and report to the Secretary on violations of this Act;

(3) shall recommend to the Secretary, from time to time, amendments for the improvement of this Act;

(4) may use the resources, personnel, and facilities of the Agricultural Stabilization and Conservation Service of the Department;

(5) may cooperate with State officials charged with the enforcement of State statutes governing warehouses;

(6) shall have succession in its corporate name;

(7) may adopt, alter, and use a corporate seal, which shall be judicially noticed;

(8) may purchase or lease and hold such real and personal property as it considers necessary or convenient in the transaction of its business and may dispose of such property held by it upon such terms as it considers appropriate;

(9) may sue and be sued in its corporate name and intervene in any court in any suit, action, or proceeding in which it has an interest, except that no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Corporation or its property;

(10) may adopt, amend, and repeal bylaws, rules, and regulations governing the manner in which its business may be conducted and may exercise and enjoy the powers granted to it by law;

(11) may use the United States mails in the same manner as the other executive agencies of the Government;

(12) shall assemble data for the purpose of establishing actuarially sound premiums for insurance on grain stored in certified warehouses;

(13) shall determine the character and necessity for its expenditures under this Act and the manner in which they shall be incurred, allowed, and paid, without regard to any other laws governing the expenditure of public funds, and such determinations shall be final and conclusive upon all other officers of the Government;

(14) may enter into and carry out contracts or agreements necessary in the conduct of its business, as determined by the Board, except that the Corporation may not enter into or carry out contracts or agreements to provide insurance under this Act; and

(15) shall have such powers as may be necessary or appropriate for the exercise of the powers specifically conferred upon the Corporation by this Act and all such incidental powers as are customary in corporations generally.

(b) The district courts of the United States, including the courts of bankruptcy and the district courts of the District of Columbia and of any territory or possession, shall have exclusive original jurisdiction, without regard to the amount in controversy, of all suits brought by or against the Corporation. Any suit against the Corporation shall be brought in the District of Columbia, or in the district wherein the plaintiff resides or is engaged in business.

(c) State and local laws or rules shall not apply to contracts or agreements of the Corporation or the parties thereto to the extent that such contracts or agreements provide that such laws or rules shall not apply, or to the extent that such laws or rules are inconsistent with such contracts or agreements.

PERSONNEL

SEC. 6. (a) Except as provided in subsection (b), the Secretary shall—

(1) appoint, pursuant to the provisions of title 5, United States Code, governing appointments in the competitive service, such officers and employees as may be necessary for the transaction of the business of the Corporation;

(2) fix their compensation in accordance with chapter 51, and subchapter III of chapter 53, of title 5, United States Code;

(3) define their authority and duties; and

(4) delegate to them such of the powers vested in the Corporation as the Secretary determines appropriate.

(b) Personnel paid by the hour, day, or month when actually employed may be appointed and their compensation fixed without regard to the provisions, chapter, and subchapter described in subsection (a).

MONEYS OF THE CORPORATION

SEC. 7. (a)(1) To carry out this Act, the Corporation is authorized to issue to the Secretary of the Treasury notes or other obligations in an aggregate amount of not

to exceed $250,000,000, in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations.

(2) The Secretary of the Treasury shall purchase any notes and other obligations issued under this subsection. To purchase such notes and obligations, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act (31 U.S.C. 752 et seq.). The purposes for which securities may be issued under such Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

(b) All money of the Corporation not otherwise used may be—

(1) deposited with the Treasury of the United States or, with the approval of the Secretary of the Treasury, in any Federal Reserve or other bank, subject to withdrawal by the Corporation at any time; or

(2) with the approval of the Secretary of the Treasury, invested in obligations of the United States, a State, or a political subdivision of a State or in obligations guaranteed as to principal and interest by the United States.

(c) The Corporation shall at all times maintain complete and accurate books of account and shall file with the Secretary such reports concerning the business of the Corporation as the Secretary may require.

(d) The Corporation, including its franchise, capital, reserves, surplus, income, and property, shall be exempt from all taxation now or hereafter imposed by the United States, a State, or a county, municipality, or local taxing authority.

GRAIN STORAGE INSURANCE FUND

SEC. 8. (a) There shall be established in the Treasury of the United States a Grain Storage Insurance Fund which shall be available, up to an amount determined by the Corporation, without fiscal year limitation—

(1) to pay such insurance claims as may arise under this Act;

(2) to repay any notes or obligations issued under section 7(a); and

(3) to pay such administrative expenses as may arise in carrying out the program established by this Act.

(b) The Grain Storage Insurance Fund shall be credited with such amounts as may be borrowed or collected pursuant to sections 7(a), 9(h), and 11(b).

INSURANCE BENEFITS

SEC. 9. (a) The Corporation shall insure a depositor who has grain stored in a certified warehouse against a loss of such grain sustained by such depositor as a result of such warehouse becoming insolvent, as defined in section 101(26) of title 11, United States Code.

(b)(1) The amount of grain that may be insured under this Act in the case of any depositor is the amount of grain stored by the depositor in certified warehouses and to which the depositor has title or a right to payment.

(2) The amount of grain to which a depositor has title or a right to payment may be proved by a scale ticket, a warehouse receipt, or other original source document issued by the warehouse for the grain.

(c) Grain shall be insured under this Act at the average fair market value of the grain (as determined by the Corporation) for the ninety days preceding the insolvency of the certified warehouse in which the grain was stored.

(d) The Corporation shall determine the date of insolvency of a certified warehouse in which grain was stored.

(e) The amount of insurance payable under this Act in the case of any depositor shall be an amount equal to the product obtained by multiplying the amount of grain which is insured under this Act and stored in the certified warehouse which became insolvent by the fair market value of the grain, less—

(1) any amounts for which settlement has been made;

(2) any expenses for the handling, processing, or disposition of grain which were incurred by the certified warehouse in which the grain was stored and which were authorized by the depositor; and

(3) any unpaid liens against the grain.

(f) The Corporation may require a depositor to file such proof for a claim of loss for grain insured under this Act as the Corporation considers appropriate. If the Corporation is not satisfied that a claim is valid, it may refuse to pay the claim until a final determination of the claim is made by a court of competent jurisdiction.

(g) The Corporation shall pay a claim for a grain loss insured under this Act as soon as possible after the date of insolvency of the certified warehouse in which the grain was stored but in no event shall payment be made later than ninety days after such date or the date of any final determination made by a court of competent jurisdiction, whichever is later.

(h) Upon payment to a depositor for a loss of grain insured under this Act, the Corporation shall be subrogated, to the extent of the payment, to all rights of the depositor against the warehouse in which such grain was stored and against any person providing insurance or a bond for the loss of such grain.

(i) Insurance benefits payable under this Act shall not be liable to attachment, levy, garnishment, or any other legal or equitable process, or to deduction on account of the indebtedness of the insured or his estate to the United States, before payment is made to the insured, except claims of the United States or the Corporation arising under this Act.

(j) This Act shall not be construed to bar any right of recovery—

(1) by a depositor against a warehouse for any fraud or criminal or tortious act committed by such warehouse; or

(2) by a State, warehouse, or depositor against a person providing insurance or a bond for grain losses.

CERTIFICATION OF WAREHOUSES

SEC. 10. (a) A warehouse which is licensed under the United States Warehouse Act (7 U.S.C. 241 et seq.) is a certified warehouse under this Act.

(b)(1) The Corporation shall grant certification under this Act to a warehouse, other than a warehouse described in subsection (a), which—

(A) submits to the Corporation an application which contains such information and is in such form as the Corporation prescribes; and

(B) meets the eligibility qualifications established for the licensing of warehouses under—

(i) the United States Warehouse Act (7 U.S.C. 241 et seq.); or

(ii) a State statute which imposes qualifications for the licensing of warehouses which the Corporation determines are at least equal to the qualifications established under such Act.

(2) The Corporation shall terminate the certification of a warehouse, other than a warehouse described in subsection (a), if—

(A) such warehouse requests the termination of such certification; or

(B) the Corporation determines, after notice and opportunity for a hearing, that such warehouse does not meet the eligibility qualifications described in paragraph (1)(B).

(c) The Corporation may cause examinations to be made of a warehouse which applies for certification or is certified under subsection (a) or (b), including the facilities, grain stocks, books, records, papers, and accounts of such warehouse.

(d) Grain stored in a warehouse which is certified under subsection (a) or (b) and which ceases to be so certified shall continue to be insured under this Act for a period of sixty days after the date on which the certification ceases.

ASSESSMENT OF DEPOSITORS

SEC. 11. (a) A certified warehouse shall levy upon a depositor, in a manner prescribed by the Corporation, an assessment based on the amount of grain deposited by such depositor in such warehouse at the time such deposit is made.

(b) A certified warehouse shall remit to the Corporation, in a manner prescribed by the Corporation, assessments made by it pursuant to subsection (a).

(c) The Corporation shall establish and may adjust the rate of the assessment for insurance provided under this Act.

REGULATIONS

SEC. 12. The Board shall, after consultation with the Secretary, the Administrator of the Agricultural Stabilization and Conservation Service, and the Chairman of the

Commodity Futures Trading Commission, prescribe such regulations as may be necessary to carry out this Act.

CRIMINAL PENALTIES

SEC. 13. (a) Whoever, being an officer, agent, or employee of or connected in any capacity with the Corporation, and whoever, being a receiver of the Corporation, or agent or employee of the receiver, embezzles, abstracts, purloins, or willfully misapplies any moneys, funds, credits, securities or other things of value belonging to the Corporation, or pledged or otherwise entrusted to its care, shall be fined not less than $10,000 nor more than $20,000 or imprisoned not less than three years nor more than fifteen years, or both.

(b) Whoever, with intent to defraud, knowingly conceals, removes, disposes of, or converts to his own use or to that of another, any property mortgaged or pledged to, or held by the Corporation or a depositor shall be fined not less than $10,000 nor more than $20,000 or imprisoned not less than three years nor more than fifteen years, or both.

(c) Whoever, being an officer, agent, or employee of or connected in any capacity with the Corporation, with intent to defraud the Corporation or any other company, body politic or corporate, or any individual, or to deceive any officer, auditor, examiner, or agent of the Corporation or of any department or agency of the United States, makes any false entry in any book, report, or statement of or to the Corporation, or without being duly authorized, draws any order or bill of exchange, makes any acceptance, or issues, puts forth or assigns any note, debenture, bond, or other obligation, or draft, bill of exchange, mortgage, judgment, or decree, or, with intent to defraud the United States or any agency thereof, or the Corporation participates or shares in or receives directly or indirectly any money, profit, property, or benefits through any transaction, loan, commission, contract, or any other act of the Corporation, shall be fined not less than $10,000 nor more than $20,000 or imprisoned not less than three years nor more than fifteen years, or both.

(d) Whoever knowingly makes any false statement or report, or willfully overvalues any property or security, for the purpose of influencing in any way the action of the Corporation shall be fined not less than $10,000 nor more than $20,000 or imprisoned not less than three years nor more than fifteen years, or both.

(e) Whoever, being an officer, agent, or employee of or connected in any capacity with the Corporation or a certified warehouse speculates in any grain insured under this Act, or in contracts relating thereto, or in the stock or membership interests of any association or corporation engaged in handling, processing, or disposing of any such grain shall be fined not less than $10,000 nor more than $20,000 or imprisoned not less than three years nor more than fifteen years, or both.

EFFECTIVE DATE

SEC. 14. (a)(1) Within sixty days of the date of enactment of this Act, the Secretary shall conduct a referendum of farmers engaged in the production of grain to determine whether such farmers are in favor of or opposed to the Federal grain storage insurance program established under this Act. The Secretary shall determine the qualifications grain producers must meet in order to participate in the referendum.

(2) If such program is approved by 50 or more per centum of eligible producers voting in the referendum conducted pursuant to paragraph (1)—

(A) such program shall become effective upon the date of such approval;

(B) the Secretary shall appoint the members of the Board pursuant to section 4(a) within ninety days of the date of such approval;

(C) the Board shall prescribe regulations pursuant to section 12 within one year after the date of such approval; and

(D) the Corporation shall reimburse the Secretary, from the Grain Storage Insurance Fund, established pursuant to section 8, for any expenses incurred by the Secretary in conducting the referendum, except for expenses relating to the salaries of employees of the Department.

(3) If such program is not approved by 50 or more per centum of eligible producers voting in the referendum conducted pursuant to paragraph (1), such program shall not become effective.

(b)(1) If such program becomes effective pursuant to subsection (a) and subsequently 25 or more per centum of depositors petition the Secretary to terminate such program, the Secretary shall conduct a referendum of depositors to determine whether such depositors favor termination of the program.

(2) If more than 50 per centum of depositors voting in the referendum conducted pursuant to paragraph (1) vote to terminate such program, the program shall be terminated sixty days after the date of the referendum.

(3) The Corporation shall reimburse the Secretary from the Grain Storage Insurance Fund, established pursuant to section 8, for any expenses incurred by the Secretary in conducting the referendum, except for expenses relating to the salaries of employees of the Department.

[S. 596, 98th Cong., 1st sess.]

A BILL To provide surplus commodities to farmers who lost grain stored in certain insolvent warehouses.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Grain Storage Compensation Act of 1983".

DEFINITIONS

SEC. 2. As used in this Act, unless the context clearly requires otherwise—

(1) the term "depositor" means the owner or holder of a scale ticket, a warehouse receipt, or other original source document issued by a public grain warehouse for grain who resides in a State and who is entitled to possession or payment for the grain represented by such ticket, receipt, or other document;

(2) the term "grain" means barley, corn, cotton, dry edible beans, flaxseed, grain sorghum, oats, rice, rye, soybeans, sunflower seeds, wheat, and any other commodity which is commonly classified as a grain and traded at, or stored in, a warehouse;

(3) the term "insolvent" has the same meaning given to such term under section 101(26) of title 11, United States Code;

(4) the term "Secretary" means the Secretary of Agriculture;

(5) the term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific;

(6) the term "surplus commodities" means agricultural commodities owned and held by the Commodity Credit Corporation that are not obligated for any other purpose under any other provision of law; and

(7) the term "warehouse" has the same meaning given to such term under section 2 of the United States Warehouse Act (7 U.S.C. 242).

COMPENSATION FOR INSOLVENCY OF LICENSED WAREHOUSES

SEC. 3. In any case in which a depositor has sustained a loss of grain, the loss of such grain was the direct result of the insolvency of a public grain warehouse in which the grain was stored, and the insolvency of such warehouse occurred at any time during the period beginning on December 1, 1979, and ending on the date of the enactment of this Act, the Secretary shall transfer to such depositor, in accordance with this Act, surplus commodities, or title to such commodities, in an amount, type, and quality the Secretary determines sufficient to compensate such depositor for such loss.

NOTICE OF COMPENSATION

SEC. 4. (a) Within sixty days of the date of enactment of this Act, the Secretary shall publish—

(1) in the Federal Register a notice containing a list of the public grain warehouses throughout the United States which became insolvent during the period described in section 3; and

(2) in a newspaper of general circulation in the area of each public grain warehouse which became insolvent during the period described in section 3 a notice containing the name of such warehouse.

(b) The Secretary shall include in each notice described in subsection (a) a summary of the compensation program provided for in this Act, including a summary of the eligibility requirements described in section 5(a).

PAYMENT OF COMPENSATION

SEC. 5. (a) To be eligible to receive compensation under this Act, a depositor must, within sixty days after the date of publication of the notice described in section 4(a)(2), file a written application for such compensation with the depositor's local office of the Agricultural Stabilization and Conservation Service. The application must describe the type and quantity of grain lost as a result of the insolvency of a warehouse described in section 3.

(b)(1) Within thirty days of the receipt of an application described in subsection (a), the Secretary shall determine if a depositor qualifies for compensation under this Act.

(2) If the Secretary approves an application for compensation under this Act, the Secretary shall, at the earliest practicable time, transfer to such depositor surplus commodities, or title to such commodities, in accordance with section 3.

(3) If the Secretary denies, in whole or in part, an application for compensation under this Act, the depositor shall have the right to appeal administratively such denial.

AUTHORIZATION OF APPROPRIATIONS

SEC. 6. There are authorized to be appropriated such sums as may be necessary to carry out this Act.

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